

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 6710**

**BILL NUMBER:** HB 1742

**DATE PREPARED:** Dec 12, 1998

**BILL AMENDED:**

**SUBJECT:** Blood alcohol level.

**FISCAL ANALYST:** Mark Bucherl

**PHONE NUMBER:** 232-9869

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill reduces from 0.10% to 0.08% the percentage of alcohol by weight in a person's blood or breath that is necessary to constitute prima facie evidence of intoxication in a prosecution for operating a motor vehicle or watercraft while intoxicated. It reduces the range of the percentage of alcohol by weight in a person's blood or breath to at least 0.05% but less than 0.08% that is necessary to constitute relevant evidence of intoxication in a prosecution for operating a motor vehicle or watercraft while intoxicated. (Current law provides that the range for relevant evidence of intoxication is at least 0.05% but less than 0.10%.) It also makes conforming amendments.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:** This bill creates a lower blood alcohol percentage level necessary to constitute prima facie evidence of intoxication. Research evidence suggests that this action may increase the number of arrests made involving alcohol-related crimes, some of which are Class B, C and D felonies. The following are possible prison terms:

<u>Felony</u>	<u>Prison Term</u>	<u>Avg Time Served</u>
Class B	6 to 20 years	3 yrs., 2 mos.
Class C	2 to 8 years	1 yr., 7 mos.
Class D	6 mos. to 3 years	7 mos.

The following represents current DOC incarceration statistics for alcohol-related crimes. (Note: there have been no persons recently incarcerated for Class B felony Driving While Intoxicated Resulting In Death.)

<u>Number of Individuals Incarcerated for Felony Crimes</u>	<u>Five Yr. FY 97 Average</u>	
Class D Driving While Intoxicated	599	433
Class D Driving While Intoxicated Resulting In Serious Bodily Injury	18	19
Class C Driving While Intoxicated Resulting In Death	20	26

The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner.

**Explanation of State Revenues:** Decreasing the intoxication level necessary for prosecution may affect crimes chargeable with Class C infractions and Class C misdemeanors, as well as B, C and D felony crimes. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class C infraction is \$500 which is deposited in the state General Fund. The maximum fine for a Class C misdemeanor is \$500. The maximum fine for a Class B, C or D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

If the criminal action or infraction involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed. The court may also impose an alcohol and drug counter measures fee of \$200. Revenue collected is deposited in the State User Fee Fund.

**Explanation of Local Expenditures:** A Class C misdemeanor is punishable by up to 60 days in jail. If more defendants are detained in county jails due to misdemeanors or prior to their felony court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.